

MEMORANDUM

TO: Educational Leaders

FROM: Ray McNulty,
Commissioner of Education

DATE: July 11, 2002

RE: Review of 2002 Legislative Session

The following is a brief review of legislation that passed into law during the second year of the biennial session of 2001-2002 and is of interest to the education community.

If you wish to see the full text of any education acts, bills or resolutions, you may do so at the Vermont Department of Education Web-site at www.state.vt.us/educ/. Simply access the link for the 2002 Legislative Session. If you need further information regarding any legislation, feel free to contact Andy Snyder at 828-1086 or asnyder@doe.state.vt.us. For complete act and bill listings, please reference the Vermont Legislative Web-site at www.leg.state.vt.us.

The following are listed according to the act number. In parentheses is the number of the bill as it originated in the House or Senate.

Act 110 (H. 646) An Act Relating to Providing Adjustments in the Amounts Appropriated for the Support of Government
<http://www.leg.state.vt.us/docs/2002/acts/ACT110.HTM>

The Budget Adjustment Act of 2002 (which makes adjustments to the current year 2001-2002 budget) has a number of sections that refer to education:

Sec. 22 Refers to Act 117 of 2000. Clarifies that notwithstanding any provisions to the contrary, federal funds used in the Educational Support System law shall be counted as part of the state's sixty percent share of funding.

Sec. 24 Trues up the appropriation of education grants for fiscal year 2002.

Sec. 33 One-Time Appropriations to the Department of Education are changed due to the rescission:

- (31) Vermont Center for the Book - \$50,000 reduced to \$16,667
- (32) Debate and forensic programs - \$17,000 reduced to \$10,000
- (33) Teacher recruitment initiative- \$45,000 remains intact
- (34) Services to Children who Stutter - \$75,000 reduced to \$0
- (53) Bennington School District trip to Washington, D.C. \$7,500

Sec. 42(a) Reversions – The following amounts shall revert to the General Fund from the accounts indicated:

(N) DOE – Management Information system	\$29,132
(31) Grant to CVU; holocaust education	\$2,462

Sec. 46 Requires the joint fiscal committee to provide the general assembly its recommendations for changes necessary to restore the stabilization reserve.

Sec. 47 Permits construction costs derived from federal funds to be eligible for state aid if part of the school renovation, IDEA and Technology grants.

Act #118 (H. 708) An Act Relating to High School Diplomas for WWII Veterans
<http://www.leg.state.vt.us/docs/2002/acts/ACT118.HTM>

This act intends to honor veterans of World War II who never completed their secondary education. The Act includes legislative findings that describe the many sacrifices that these veterans made for their country.

The law requires school boards to award a high school diploma, upon request, to any Vermont resident (regardless of where he or she resides in Vermont) who engaged in military service during World War II, was honorably discharged from military service and does not have a high school diploma. The Department of Education is working with veteran's groups and the Vermont School Boards Association to develop an application form for these requests.

[Act #130 \(H. 568\) An Act Relating to Claims Against Municipal Officers](http://www.leg.state.vt.us/docs/2002/acts/ACT130.HTM)
<http://www.leg.state.vt.us/docs/2002/acts/ACT130.HTM>

This Act requires the legislative council to examine specific statutory and common law provisions of municipal sovereign immunity and qualified immunity and issue a report to the General Assembly by January 1, 2003. Though the intent of this law is to focus on town government, the Vermont School Boards Association is monitoring the study for school districts.

[Act #135 \(S. 224\) An Act Relating to Reports of Abuse, Neglect and Exploitation of Elderly and Disabled Adults](http://www.leg.state.vt.us/docs/2002/acts/ACT135.HTM)
<http://www.leg.state.vt.us/docs/2002/acts/ACT135.HTM>

The Senate version of this bill would have defined the failure to carry out a student's Individualized Education Plan (IEP) in certain instances as "neglect" punishable by heavy fines and up to 18 months in jail. This language was removed in Committee of Conference and is not part of the adopted law.

Students and their parents, or surrogate parents have a number of already-existing remedies under state and federal law designed to address the failure of a school district to carry out an IEP properly.

The act as passed does three things. First, it establishes a comprehensive set of laws governing powers of attorney. Second, it revises the statutes dealing with abuse, neglect and exploitation of elderly and disabled adults. This is significant because many special education students fall within the Act's coverage. The phrase "elderly or disabled adult" is replaced by the term "vulnerable adult." As a result, new protections are provided to "vulnerable adults", who are defined as residents of psychiatric hospitals; persons who have an impaired ability to protect themselves due to a disability; and persons who have been receiving personal care services for more than one month from a home health agency certified by the department of health or from a person or organization that offers, provides, or arranges for personal care services. The definitions of abuse and neglect are expanded, most importantly for your purposes, the reporting responsibilities for school officials are left intact.

And, the new law creates administrative penalties for violations of certain provisions of Chapter 69 of Title 33, and gives persons aggrieved by an administrative determination the right to appeal to superior court and request a jury trial.

Third, the Act creates the Olmstead Advisory Commission, including the Commissioner of Education, to assist the Secretary of Human Services with

developing a statewide plan for deinstitutionalizing and placing into integrated, community settings, persons with disabilities.

Act #142 (H. 766) An Act Making Appropriations for the Support of Government

<http://www.leg.state.vt.us/docs/2002/acts/ACT142.HTM>

The Appropriations Act provides the funding for state and local government. In addition to the amounts appropriated for the Department of Education and local school districts through the various funding formulae (Act 60, special education, technical education, small schools, driver education, etc.) the Appropriations Act contains the following provisions:

Sec. 118 – Human Services

- (e)** Appropriation of tobacco funds for youths who are not in custody of the state
- (g)** Specific targeting of funds for substance abuse prevention and mentoring program for youth
- (h)** Specific appropriation of grant to Lamoille County People in Partnership for wrap-around services for at-risk youth
- (i)** Specific appropriation of funds for comprehensive treatment services and safe housing provisions for at-risk youth
- (j)** Specific appropriation to Prevent Child Abuse Vermont for comprehensive health education and violence prevention curriculum for seventh and eighth grade students
- (k)** Specific appropriation for recovery services

Sec. 119 Research Partnership with the Commissioner of Education, the Secretary of Human Services and the President of the University of Vermont to establish a study and make recommendations for improving the effectiveness of state and local health, human services and education programs.

Sec. 146(a) Allowance of an 18 year old full time student to remain on the Reach Up grant

Sec. 186(a) Repeal – Sec. 128(b) of No. 62 of the Acts of 1999 which sunsets school districts' eligibility to apply for special education Medicaid revenue. In other words, school districts may continue to be eligible to apply for and receive Medicaid payments for special education students.

Sec. 186b 16 V.S.A. § 2959a is amended to read Special Education Medicaid Program – Makes technical corrections on language to aid effective administration.

Sec. 187 Education – Standards and Assessment - Reduces \$68,000 in funding for the Governor’s Diploma program by delaying implementation two years (see Sec. 189)

Sec. 188 Education – Education Quality - Adds \$200,000 education funds for the purpose of awarding grants to technical centers to support innovative program development responding to emerging technologies and providing high-skill, high wage employment. Requires the commissioner give special consideration to new and innovative agricultural programs.

Sec. 188(a) Appropriations for technical education, notwithstanding 16 V.S.A. §1564,1565,1566 and 1567

Sec. 188(b) Innovative program grants to technical centers

Sec. 188a 16 V.S.A. § 1531(c) is amended. The existing law allows a school district which is geographically isolated from a Vermont technical center, if approved by the state board, to use a technical center in another state as the technical center which district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to subsection 1561(c) of this title. This amendment clarifies that any student who is a resident in the Windham Southwest Supervisory Union and who is enrolled in the Charles H. McCann Technical School at public expense shall be considered to be attending an approved technical center in another state under §1531(c).

Sec. 189(b) Delay of the implementation of the Governor’s Diploma until the beginning of the school year 2004-2005

Sec. 191 Education – Special Education; Success Beyond Six – This provision permits special education formula grants to be used for the Success by Six program. The purpose of the program is to expand local partnerships to enhance the educational opportunities of students who are at risk of failure in school.

Sec. 192 Education – State-Placed Students Grants

Sec. 193 Education – Adult Basic Education - Funds at \$270,000 above the Administration proposed level. Administration had level funded the program at the post-recision amount.

Sec. 194 Education - Education Grants - Amends language to reflect most recent estimate of resources needed to fully fund the block grant at its statutory level.

Sec. 194(b)	Boiler repair/replacement for the Shaftsbury School	\$16,000
Sec. 195	Education – transportation grants	\$12,727,961
Sec. 196	Education – Small School Grants	\$4,760,660
Sec. 197	Education – Capital Debt Service Aid	\$3,161,935
Sec. 198	Education - Local Share Property Tax – Appropriates \$42,200,000 to districts adopting budgets with local education spending in excess of the general state support grant and that raise less than the predictable yield amount. Dedicates \$36,000,000 from the education fund to support the fiscal year 2004 predicted yield calculated pursuant to 16 V.S.A. § 4027. Adds language stipulating that after a 5% reserve exists in the education fund, any remaining balances in the fund shall be used to fund a fiscal year 2004 predictable yield equivalent to the same percentile as the fiscal year 2003 predictable yield. In addition, for the purposes of presenting a balance sheet for the education fund in the years beyond fiscal year 2004, any funds in excess of the amounts necessary to maintain a five percent reserve in the education fund shall be allocated as follows: (1) To fund a predictable yield at the same percentile as the fiscal year 2003 predictable yield (2) To increase the block grant	
Sec. 199	Education – Fiscal Review Panel	\$47,935
Sec. 200	Education – Civic Education	\$16,301
Sec. 201	Education – Tobacco Litigation - Reduces funding by \$40,000 to provide resources to meet ODAP shortfall.	\$893,552
Sec. 202	Education – Act 117 Cost Containment	\$1,185,116
Sec. 203	Medicaid Reimbursement	\$1,185,116
Sec. 204	General fund transfer to the education fund – Appropriates	

and transfers the full statutory general fund transfer to the education fund for fiscal year 2003. Provides that in fiscal year 2004, \$263,910,443 shall be appropriated and transferred from the general fund to the education fund, an increase of 3.5% over fiscal year 2003.

Sec. 208a Commission on Higher Education Funding Study – Directs the Commission on Higher Education Funding to develop a vision and goals for higher education in Vermont, considering: the most cost-effective use of state funds to ensure that all Vermonters have access to education that best meets their needs; complementary provision of services by Vermont higher education institutions; techniques for contributing to development of a healthy state economy; and techniques for leveraging nonpublic funds for this purpose. These vision and goals shall be presented to the General Assembly by November 15, 2003. The Commission is directed to develop a compact between leaders in the higher education community and state leaders, defining goals for higher education, and a framework for implementing the goals.

Sec. 208b Public Higher Education Governance - Asks the Senate and House Committees on Education to review the composition and distribution of legislatively-elected and appointed trustees on the boards of the University of Vermont, the Vermont State Colleges and the Vermont Student Assistance Corporation.

Sec. 295 Debt service – Added \$200,000 for short term borrowing needs of the education fund to account for prebate payments made prior to receipt of education fund revenues.

Sec. 305 Special Education; State Funding - Clarifies that in years where statewide actual spending on special education is less than the statutory target increase, the actual spending shall control. Therefore, state support will not exceed 60% of actual spending net of federal funds, notwithstanding Sec. 10(c) of No. 117 of the Acts of 2000. While total cost growth has exceeded state funding targets, due to the federal increase in special education funding, the nonfederal share is growing at a slower rate. In addition, in any fiscal year that the actual percentage increase in the statewide total special education expenditures is less than the target increase, pursuant to Sec. 10(a) of No. 117 of the Acts of 2000, and the actual increase in the total K-12 service plans is more than the target increase, the actual percentage increase will be used to determine the amount appropriated for the ensuing fiscal year, pursuant to Sec. 10(b) of No. 117 of the Acts of 2000.

Act #144 (H. 771) An Act Relating to Miscellaneous Tax Amendments
<http://www.leg.state.vt.us/docs/2002/acts/ACT144.HTM>

Section 43 of this Act relating to finance of school construction provides substantial transitional relief for property wealthy districts easing their burden to raise funds for school construction projects undertaken between April of 1999 and FY 2005.

This law allows a school district electorate to vote to remove spending for capital costs – including debt service – from the calculation of their local education spending and thereby funding school construction on its municipal tax base. Districts that vote to do this do not receive construction aid.

The Norwich school district (part of the Dresden Interstate District) may both raise capital funds on its municipal tax base and also receive the ordinary 30% state construction aid on eligible costs (see also, Act 150 regarding inclusion of the member districts of the Rivendell Interstate School District in this provision).

Subsection (d) calls for the Department of Education to study school construction needs, funding equity and methodologies, and propose a school construction aid formula and budget for the fiscal year 2004 capital construction act that “restores” substantial equity to all Vermont’s children according to 16 V.S.A. §1.

Further information on this provision will be sent under separate cover.

Act #149 (H. 763) An Act Relating to Capital Construction, State Bonding and the Department of Corrections
<http://www.leg.state.vt.us/docs/2002/acts/ACT149.HTM>

Sec. 5(a) Appropriates funds to the Department of Education for:

- (1) School Construction Projects
\$12,750,249
- (2) State assistance to regional technical centers and comprehensive high schools for the purchase of educational program equipment
\$325,000

(b) Appropriates funds to the Department of Buildings and General Services for technical center projects

- (1) Chittenden County Regional Technical Center
\$750,000
- (2) North Country Career and Technical Center
\$950,000

(c) Appropriates funds to the Austine School for the Deaf and Hard of Hearing for ongoing renovations

\$575,000

(d) Appropriates funds to the Department of Education for use

by the Hannaford Career Center in Middlebury for architectural working plans, appropriate bid documents, and permits to be in place by Spring 2003.

\$225,000

Sec. 36 28 V.S.A. §121 is added to create a Community High School of Vermont Board

(d) The board shall report on its activities annually to the State Board of Education.

Sec. 38 Addresses the education program of the Community High School of Vermont, its compliance with the Vermont School Quality Standards and coordination with other services. The education program of the Community High School of Vermont shall be approved by the State Board of Education rather than the Commissioner.

Sec. 40 Corrections Workforce Committee – The purpose, composition and reporting requirements are specified within this section. The Commissioner of Education serves as a member of this committee.

Sec. 60 - Sec. 64 16 V.S.A. §3448, the School Construction Aid Statute, is amended and 16 V.S.A. §3448e is added to accomplish a significant change in the amount of construction aid available for technical center construction. Three technical center projects (North Country, Chittenden County and Brattleboro) are grandfathered in at the pre-existing level of 100% aid. All other future renovations or new construction projects will receive 50% aid from the state.

Sec. 62 Technical Education Study – To help in providing a vision for technical education across the state, this provision requires a study to develop recommendations for the mission and goals of a statewide system of technical education as well as strategies for implementing the goals. The report is to include recommendations for legislation, which may be needed to implement innovative strategies as well as a new funding system. The law outlines a number of other detailed considerations and involves both the Department of Education and the State Board of Education in the process.

Sec. 65 and Sec. 65a Middlebury, Mississquoi and Shaftsbury are awarded 25% state aid (in essence a 5% penalty) for specific projects that have been completed but did not comply with state construction aid procedures.

Sec. 66 16 V.S.A. §3448(a)(5)(B) is added to allow that a playground, as part of a proposed school construction project, will be eligible for aid if it is designed and constructed in accordance with the guidelines set forth

in the United States Consumer Product Safety Commission Handbook for Public Playground Safety.

Sec. 67 Authorizes that the Orleans Central Early Childhood Education and Family Center is eligible to receive 30% construction aid for a community early education center.

Sec. 68 Requires that grades earned and credits completed for any technical education program approved by the State Board of Education shall be accepted by all Vermont schools and applied toward state and local graduation requirements.

Sec. 70 Mount Anthony Union Middle School – Allocation of School Construction Funds. This section states that the funds allocated last year for this construction project will remain in place until April 15, 2003 or when the State Board of Education approval is received, whichever date is earlier. If the funds have not been disbursed by April 15, 2003, they shall be reallocated to the North Country Career Center project.

Act #150 (S. 251) An Act Relating to Capital Construction, State Bonding and the Department of Corrections, Part II

<http://www.leg.state.vt.us/docs/2002/acts/ACT150.HTM>

Sec. 1 This section amends the provision of this year's miscellaneous tax bill (Act #144) regarding the removal of school construction expenditures from Act 60 calculations. This section extends the benefits of that Act to the member school districts of the Rivendell Interstate School District by moving back the date of the application.

Act #151 (H. 761) An Act Relating to Professional Regulation and Redistricting the Senate and the House of Representatives

<http://www.leg.state.vt.us/docs/2002/acts/ACT151.HTM>

This omnibus legislation includes the licensing of speech language pathologists and audiologists. Currently, the State Board of Education licenses these professionals to the extent they work in the public schools and in private schools providing special education or related services. This new licensing requirement authorizes the practice of speech language pathology and audiology outside the public school context.

Sec. 45- Sec. 50 Initiate a new process of licensure for these professions.

Sec. 51 Stipulates the effective dates of implementation. It's effects are not immediate.

Sec. 51a The Commissioner of the Department of Education shall study and evaluate the potential impacts which licensing speech language pathologists and audiologists as proposed in this act may have on schools. The commissioner shall file a report of this evaluation with the General Assembly by January 15, 2003.

Resolution R-255 (J.R.S. 90) Joint Resolution Strongly Urging that Every Vermont Public School Provide the Opportunity for all Students to Recite the Pledge of Allegiance to the American Flag at the Beginning of Each School Day

<http://www.leg.state.vt.us/docs/2002/acts/ACTR255.HTM>

Although there were proposed bills during this legislative session that would have mandated the Pledge of Allegiance each day in public school, only this resolution passed into law which encourages recital of the pledge each day in each school in Vermont. This resolution also urges all Vermont schools to teach the responsibilities of citizenship, including the civic awareness of government policies, the need for students to participate in civic affairs through voicing their opinions and exercising critical thought, and by teaching the underlying meaning of the American flag.

Executive Order, Governor's Children and Youth Cabinet

First proposed in the form of legislation (H. 665 and S. 279), Governor Dean proclaimed by Executive Order the establishment of a Governor's Children and Youth Cabinet. The Executive Order calls for the coordination of many of the programs that exist to address specific problems affecting Vermont's youth. The Commissioner of the Department of Education serves as a member of this Cabinet in person and may not appoint or send a designee. The tasks of the Cabinet are specifically laid out. To carry out these tasks, the processes and powers of the Cabinet are clearly defined. The Executive Order took effect on the 5th of February 2002 and shall sunset on June 30, 2010.